

AMENDED IN ASSEMBLY MAY 20, 2004
AMENDED IN ASSEMBLY APRIL 21, 2004
AMENDED IN ASSEMBLY APRIL 12, 2004
AMENDED IN ASSEMBLY MARCH 18, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1874

Introduced by Assembly Member Cohn

February 3, 2004

An act to add Section 14666.9 to the Government Code, and to amend Section 671.5 of, and to add Section 679.1 to, the Streets and Highways Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1874, as amended, Cohn. Telecommunications: Information and Advanced Communications Deployment Act of 2004.

Existing law provides that the Department of Transportation shall have full possession and control of the state highways and associated property. Existing law requires the department to approve or deny an application from an applicant for an encroachment permit within 60 days of receiving a completed application that meets specified requirements. Existing law provides that the department's failure to notify an applicant within the required time period that a permit is denied is deemed to constitute approval of the permit. Existing law authorizes an applicant for an encroachment permit to appeal to the director of the department for a final determination of the department's denial of an application. Existing law requires the director to make a

final written determination within 60 days after receipt of an applicant's appeal.

This bill would adopt the Information and Advanced Communications Deployment Act of 2004. The act would make it the public policy of the state to, among other things, promote the availability of a wide range of communications services to residents of California, to improve the opportunities for economic development and delivery of communications services, and to ensure that the rules, regulations, and procedures for access to public rights-of-ways advance these policies. The bill would ~~change the number of days~~ *require* the department ~~has to approve or deny an application for an encroachment permit and the number of days the director has to make a final determination of the applicant's appeal to~~ *from specified telephone or telegraph corporations, and cable television corporations, within 45* days. The bill would also ~~require an encroachment permit issued to~~ *entitle a communications provider to a permit, renewable annually, for the installation operation, repair, maintenance, or minor alteration of its facilities and service connections that do not require excavation, located or installed in state highways to include provisions allowing the provider to access the equipment for the purposes of operation, repair, and maintenance of the facilities.* The bill would authorize the department to revoke the permit under certain conditions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the
2 following:

3 (a) *It is the intent of the Legislature to promote the accelerated*
4 *deployment of next-generation broadband networks in California,*
5 *irrespective of the technological platform used to deploy those*
6 *services in California, whether through wireless, Internet, cable,*
7 *satellite, or telecommunications networks.*

8 (b) Information and advanced communications services are the
9 foundations for California's continued technological and
10 economic leadership. It has been estimated that the widespread
11 deployment of information and advanced communications
12 services networks can generate an increase of over \$300 billion in



1 incremental GSP and nearly two million new jobs for the state of
2 California over a ten-year period.

3 ~~(b)~~

4 (c) Accelerated deployment of information and advanced
5 communication services infrastructure is a critical component of
6 the state's economic development and an improved quality of life
7 for its constituency.

8 ~~(e)~~

9 (d) Rights-of-way and public lands access is one of the most
10 important considerations for companies considering major new
11 investments in information and advanced communications
12 services infrastructure. In order to encourage accelerated
13 deployment of information and advanced communications
14 services in California, it is important that rights-of-way access not
15 be a barrier or impediment to investment in broadband networks.

16 ~~(d)~~

17 (e) In order to support the goal of accelerated deployment of
18 information and advanced communications services, state entities
19 should ensure prompt access to public lands by expediting and
20 ~~streamlining~~ streamlining rights-of-way access for the deployment
21 of information and advanced communications services
22 infrastructure.

23 SEC. 2. Section 14666.9 is added to the Government Code, to
24 read:

25 14666.9. (a) This section shall be known, and may be cited
26 as, the Information and Advanced Communications Deployment
27 Act of 2004.

28 (b) It is the public policy of the state to do all of the following:

29 (1) Promote the availability of a wide range of communications
30 services to residents of this state at reasonable cost, including the
31 rapid accelerated deployment of information and advanced
32 communications services networks in the State of California.

33 (2) Encourage the introduction of new services, the entry of
34 new providers, the development of new technologies, and increase
35 investment in the communication infrastructure of this state.

36 (3) Improve the opportunities for economic development and
37 the delivery of communications services.

38 (4) Ensure that the rules, regulations and procedures for access
39 to public rights-of-ways advance these policies.

1 (c) Nothing in this section alters the rights provided to
2 telegraph or telephone corporations pursuant to Section 7901 of
3 the Public Utilities Code.

4 SEC. 3. Section 671.5 of the Streets and Highways Code is
5 amended to read:

6 671.5. (a) The department shall either approve or deny an
7 application from an applicant for an encroachment permit within
8 ~~45~~ 60 days of receiving a completed application, as determined by
9 the department. An application for an encroachment permit is
10 complete when all other statutory requirements, including the
11 California Environmental Quality Act (Division 13 (commencing
12 with Section 21000) of the Public Resources Code), have been
13 complied with. The department's failure to notify the applicant
14 within that ~~45-day~~ 60-day period that the permit is denied shall be
15 deemed to constitute approval of the permit. Thereafter, upon
16 notifying the department, the applicant may act in accordance with
17 its permit application, as if the permit had been approved.

18 (b) *The department shall either approve or deny an application*
19 *from a telephone or telegraph corporation, as defined in Sections*
20 *234 and 236 of the Public Utilities Code, or a cable television*
21 *corporation, as defined in Section 215.5 of the Public Utilities*
22 *Code, who is an applicant for an encroachment permit, within 45*
23 *days of receiving a completed application, as determined by the*
24 *department. An application for an encroachment permit is*
25 *complete when all other statutory requirements, including the*
26 *California Environmental Quality Act (Division 13 (commencing*
27 *with Section 21000) of the Public Resources Code), have been*
28 *complied with. The department's failure to notify the applicant*
29 *within that 45-day period that the permit is denied shall be deemed*
30 *to constitute approval of the permit. Thereafter, upon notifying the*
31 *department, the applicant may act in accordance with its permit*
32 *application, as if the permit had been approved.*

33 (c) If the department denies an application for an encroachment
34 permit, it shall, at the time of notifying the applicant of the denial,
35 furnish to the applicant a detailed explanation of the reason for the
36 denial.

37 ~~(e)~~

38 (d) The department shall adopt regulations prescribing
39 procedures for an applicant to appeal to the director for a final
40 determination of the department's denial of an application. The

1 appeal shall be made in writing to the director. There shall be a
2 final written determination by the director within 45 calendar days
3 after receipt of the applicant's written appeal. The adopted
4 regulations shall require the appellant to pay to the department a
5 fee of not more than 50 percent of the estimated administrative cost
6 to the department of conducting the appeal.

7 ~~(d)~~

8 (e) Nothing in this section precludes an applicant and the
9 department from mutually agreeing to an extension of any time
10 limit provided by this section.

11 SEC. 4. Section 679.1 is added to the Streets and Highways
12 Code, to read:

13 679.1. ~~An encroachment permit issued to a communications~~
14 ~~provider for the installation of its facilities located or installed in~~
15 ~~state highways shall include in its terms provisions to allow the~~
16 ~~communications provider, upon proper notice to the department,~~
17 ~~to access the equipment for the purposes of operation, repair, and~~
18 ~~maintenance of those facilities. The permit may be revoked if the~~
19 ~~permittee fails to comply with the provisions of this article, after~~
20 ~~reasonable notice and opportunity to cure is provided to the~~
21 ~~permittee.~~ *Any communications provider who receives, or has*
22 *received, an encroachment permit, is entitled to an annually*
23 *renewable permit for the operation, repair, maintenance, or minor*
24 *alteration of its facilities and service connections that do not*
25 *require excavation, located or installed in state highways. A*
26 *communications provider with an annually renewable permit shall*
27 *give notice to the department whenever it accesses its facilities that*
28 *are located or installed in state highways. The department may*
29 *revoke the permit if the permittee fails to comply with the*
30 *provisions of this article, after reasonable notice and an*
31 *opportunity to cure is provided to the permittee.*

